

COMMISSION PROPOSES ELIMINATION OR MODIFICATION OF  
CABLE TELEVISION SYSTEM INFORMATION FORM 325

As part of an ongoing effort to streamline the regulatory process, the Commission has adopted a Notice of Proposed Rulemaking to eliminate or modify Form 325, the "Annual Report of Cable Television System" Form. The purpose of Form 325 is to gather information on cable television systems for, among other things, predicting industry trends and formulating policy. However, the Commission has had limited resources to devote to processing and compiling these forms and consequently the data has not been used in the most efficient manner possible.

Form 325 solicits basic operational information from all U.S. cable television systems, including: the operator's name and address; system-wide capacity and frequency information; channel usage; and number of subscribers. The form was developed for use on a one time basis in 1966 and was subsequently adopted as an annual filing requirement in 1971. The form was intended to provide the Commission with information that would be of value in the development of rules and policies applicable to the cable television industry. The information was also to be used for individual waiver or enforcement proceedings, to help calculate annual federal regulatory fee payments and to assist in the Commission's signal leakage and interference elimination program. To ensure the accuracy and usefulness of data obtained from Form 325, it needs to be mailed annually to the more than 11,000 cable systems in the country. However, because of problems such as incomplete and deficient returned forms, the Commission has not mailed or collected Form 325 data since 1994. Additionally, maintaining this data base requires a substantial amount of Commission staff time and resources.

As a consequence of these developments, the Commission has concluded that the Form 325 should be eliminated or reformed to make the data collection more efficient and useful. Information on the basic facts of cable television system operation is available from commercial sources and the Commission already used Form 320 to gather information on signal leakage and interference problems. The Commission seeks comment on the proposed

elimination of Form 325 and also seeks comment on possible revisions in the form that might clarify and improve the usefulness of the data collected.

This action is initiated in conjunction with the 1998 biennial regulatory review process. Although Section 11 does not specifically refer to cable operations, the Commission has determined that the 1998 biennial review presents an opportunity to examine all of the Commission's regulations.

(over)

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Action by the Commission April 27, 1998, by Notice of Proposed Rulemaking (FCC 98-79).

Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani, with Commissioner Furchtgott-Roth issuing a statement.

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Separate Statement of Commissioner Harold W. Furchtgott-Roth

In re: Notice of Proposed Rulemaking

1998 Biennial Regulatory Review -- "Annual Report of Cable Television System,"  
Form  
325, Filed Pursuant to Section 76.403 of the Commission's Rules

I support adoption of this Notice of Proposed Rulemaking. To my mind, any reduction in paperwork obligations or simplification of our procedural rules for regulated entities -- or "streamlining" -- is always a plus. To that extent, this item is good policy and I am all for it.

This item should not, however, be mistaken for compliance with section 11 of the Communications Act.

First of all, section 11 requires a biennial review of all regulations that govern the operations of "any provider of telecommunications service." 47 U.S.C. section 161(a)(1). It does not by its terms apply to regulations governing those in the broadcasting and cable business, unless they also provide telecommunications service. I therefore understand this cable item to be premised not on the biennial review requirement of section 11 (notwithstanding the caption, which suggests otherwise) but on our general authority to change our rules when appropriate under section 4(i), id. section 154(i), and related provisions of the Communications Act.

Second, this item focuses mainly, as do some "pure" section 11 items that we have issued, on procedural rules governing filings at the Commission as opposed to substantive rules that limit what companies can do in the marketplace, e.g., regulations that restrict market entry or limit market share. As stated above, it is certainly important that in the course of the Biennial Review we evaluate our procedural rules and modify or eliminate them if necessary. But section 11 requires us to look at both procedural and substantive rules and make an affirmative finding of their continued necessity.

If all we do is "streamline" certain procedures at the Commission, without also examining all pertinent substantive rules and making the statutorily-required determinations of necessity, we will fail to meet the express directive of section 11.

As I have previously explained, I question whether the FCC is prepared to meet its statutory obligation to review all of the regulations covered by section 11 in 1998. See generally 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements, \_\_ FCC Rcd \_\_ (1998) (released Jan. 30, 1998). To my knowledge, the FCC has no plans to review affirmatively all regulations applicable to the operations or activities of telecommunications providers and to make specific findings as to their continued necessity. Nor has the Commission issued general principles to guide our public interest analysis and decisionmaking process across the wide range of FCC regulations.

We should not let this item, which does not relate to telecommunications rules and focuses only on procedural matters, or any other limited Commission analysis, be mistaken for full compliance with Section 11.

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